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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,814	09/08/2003	Kevin J. Surace	M-15249US	2870
7590	11/28/2005		EXAMINER	
Alan H. MacPherson MacPHERSON KWOK CHEN & HEID LLP 1762 Technology Drive, Suite 226 San Jose, CA 95110			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/658,814

Applicant(s)

SURACE ET AL.

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15, 24-26, 40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 and 27-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 7, 8, 10, 26, 40 and 41 is/are rejected.
- 7) ☒ Claim(s) 2, 5, 6, 9, 11-15, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This Office action is in response to the applicant's amendment filed on 8/5/2005.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 8, 10, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirschner (US 3,215,225).

In regard claim 7, Kirschner teaches a laminated structure comprising at least one internal layer of a selected material 13. The internal layer 13 is interposing between layer 12 and lower layer 11, cemented as by rubber cement, which serves as viscoelastic glue (cement functions as glue and rubber functions as elastic) layers, one layer bonded with the layer 12 and another layer bonded with layer 11, at least one additional layer on the other side of each internal layer of viscoelastic glue would be either layer 12 or 11 (see figure 1 and column 4, lines 10-14).

In regard claims 8, 10, Kirschner teaches the claimed invention, wherein further comprising at least one additional layer an external layer, which including layers 10 and 12 of sound absorbing material.

In regard claim 40, Kirschner teaches the claimed invention comprising a layer of first non-metallic material 13 (see column 4, lines 8-13) having two surfaces, one of said two surfaces comprising an outer surface, a layer of viscoelastic glue (see above

explanations) on the other of said two surfaces and a layer of a second material 11 over said viscoelastic glue.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nudo (US Pub.No.2004/0177590) in view of Jonsson (US 5,476,560).

In regard claims 1, 26, Nudo teaches a composite structural panel comprising two external layers of fly wood 22 thus non-metallic material, at least one internal constraining layer 16, 18 made out of plastic (col. 2, paragraph 28, line 5). Because of the phrase "at least one internal constraining layer" as cited, the examiner's interpretation it could be more than one layers, therefore the internal constraining layer taught by Nudo composed of layers 16 and 18 together. Two adhesive layers 20 separated by said at least one internal constraining layer. Nudo does not specifically teach the two internal layers separated by the constraining layer are made of viscoelastic glue. Jonsson teaches method of producing an improved hull for accomplishing high finish, good acoustic by having a plurality of sheets or mats of cellular plastic are glued by viscoelastic glue (see abstract). At the time of the invention, it would have been obvious to one having ordinary skill in the art at the time of the

invention was made to substitute Nudo adhesive material for Jonsson well known viscoelastic glue in the art for a stronger bonding and acoustic damping purposes.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nudo in view of Jonsson and further in view of McLaren (US 4,196,242).

Nudo in view of Jonsson teach the claimed invention as stated except for the external layers comprise each a selected thickness gypsum board layer. McLaren teaches a well-known gypsum board (col. 1, line 34) for building structures. At the time of the invention, it would have been obvious to one having ordinary skill in the art to substitute Nudo external fly wood layers for gypsum boards because they are commonly used in building construction.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirschner.

In regard claim 41, Kirschner teaches the claimed invention as stated. And wherein the second material 11 is thinner than the first material layer 13 (as shown in fig. 1); However, Kirschner does not specifically teach the layer of second material falls in the range of 1/10-1/2 of the first material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a first layer is thicker than a second layer, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. The motivation for doing would have been to provide a stronger panel structure.

***Allowable Subject Matter***

Claims 2, 5, 6, 11-15, and 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-15, 24-26, and 40-41 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holz, Drees, Eckart, DeFord, Fahmy, Porter, and Niwa teach laminated panel.

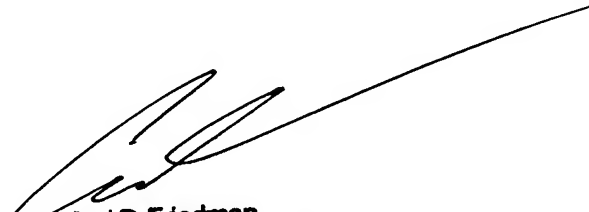
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQN  
11/15/2005



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